STATE OF NORTH DAKOTA | IN DISTRICT COURT

COUNTY OF MORTON | SOUTH CENTRAL JUDICIAL DISTRICT

The State of North Dakota, Plaintiff,

vs.

RED FAWN FALLIS, Defendant.

Cr. No. 30-2016-CR- 1696

CRIMINAL COMPLAINT

The undersigned complainant, being first duly sworn, charges that:

COUNT I: On or about the 27th day of October, 2016, in Morton County, North Dakota, the above-named Defendant committed the offense of **ATTEMPTED MURDER** in violation of **Section 12.1-06-01 and Section 12.1-16-01** of the North Dakota Century Code by then and there: Intentionally engaging in conduct which, in fact, constitutes a substantial step toward commission of the crime of Murder; to-wit: At said time and place, the Defendant attempted to intentionally or knowingly cause the death of another human being and/or attempted to cause the death of another human being under circumstances manifesting extreme indifference to the value of human life by pulling a concealed firearm, firing three shots at law enforcement officers, and/or refusing to relinquish the firearm until it was forcefully removed from her possession by law enforcement.

Penalty Section: 12.1-06-01, 12.1-16-01 N.D.C.C.
Class A Felony

COUNT II: On or about the 27th day of October, 2016, in Morton County, North Dakota, the above-named Defendant committed the offense of **PREVENTING ARREST/DISCHARGE OF OTHER DUTIES** in violation of **N.D.C.C. § 12.1-08-02** of the North Dakota Century Code by then and there: the Defendant, with intent to prevent a public servant from effecting an arrest of herself for the felony and misdemeanor offenses alleged in Morton County case 30-2016-CR-01689, she created a substantial risk of bodily injury to the public servant or to anyone except herself or employed means justifying or requiring substantial

force to overcome resistance to effecting such an arrest; to-wit: At said time and place, the Defendant prevented her arrest by physically resisting the attempts of law enforcement to restrain her, necessitating the use of force to take her to the ground, retrieve the firearm as alleged in Count I above, and restrain the Defendant.

Penalty Section: 12.1-08-02 N.D.C.C.
Class C Felony

COUNT III: On or about the 27th day of October, 2016, in Morton County, North Dakota, the above-named Defendant committed the offense of **CARRYING A CONCEALED FIREARM** in violation of **Section 62.1-04-02** of the North Dakota Century Code by then and there: being a person, other than a law enforcement officer, who carried a firearm concealed when she was not licensed to do so and was not exempt; to-wit: At said time and place, the Defendant was carrying a concealed firearm.

Penalty Section: 12.1-22-04 N.D.C.C.
Class A Misdemeanor

COUNT IV: On or about the 27th day of October, 2016, in Morton County, North Dakota, the above-named Defendant committed the offense of **POSSESSION OF MARIJUANA** in violation of **Section 19-03.1-23** of the North Dakota Century Code by then and there: Willfully possessing the controlled substance marijuana.

Penalty Sections: 19-03.1-23
Class B Misdemeanor

All of this contrary to the statute in such cases made and provided and against the peace and dignity of the State of North Dakota.

WHEREFORE, Complainant prays that Defendant may be arrested and dealt with according to law.

Cynthia Lugo
Complainant

Cynthia Lugo
Print Complainant Name

Subscribed and sworn to before me this 31st day of October, 2016.

Jas S. Hill

District Judge

Complaint Approved:

Gabrielle J. Gotey, ND #06595
Assistant State's Attorney
Morton County, North Dakota

In Custody

STATE OF NORTH DAKOTA)
) SS.
COUNTY OF MORTON)

AFFIDAVIT

I, Special Agent Joseph Arenz, attest to the following:

1. That I am a Special Agent with the North Dakota Bureau of Criminal Investigation and I am a trained and licensed peace officer with 16 years of experience with jurisdiction to enforce state law in Morton County, North Dakota.

2. That on or about October 27, 2016 at approximately 6:00 pm near Highway 1806 in south Morton County, ND.

3. The suspect was identified as Red Fawn Fallis, who is 37 years of age.

4. The following gives rise to probable cause to charge the suspects with: Attempted Murder, Preventing Arrest, Carrying a dangerous weapon, Possession of Marijuana

Circumstances and/or other facts: On October 27, 2016, Deputies with the Pennington County, SD, Sheriff's Department were in Morton County, ND assisting with law enforcement functions for the Dakota Access Pipeline (DAPL) protest. On October 27, 2016, an operational plan had been made which was going to consist of law enforcement removing individuals whom had set up a camp on private land owned by DAPL on the east side of Highway 1806 where the pipeline was supposed to be laid.

At approximately 6:00 pm, Pennington County Sheriff's Department deputies Rusty Schmidt and Thadius (Thad) Schmit were assisting with moving protestors south on Highway 1806 as part of an arrest team. Deputy Rusty Schmidt and Deputy Thad Schmit were going to arrest a female whom was later identified as Red Fawn Fallis as they stated Red Fawn Fallis was being an instigator and acting disorderly. Deputy Thad Schmit observed Red Fawn Fallis walk away from the crowd of protestors and Deputy Thad Schmit approached Red Fawn Fallis and took Red Fawn Fallis to the ground. Red Fawn Fallis struggled as Deputy Rusty Schmidt and Deputy Thad Schmit tried to get Red Fawn Fallis handcuffed. Red Fawn Fallis had Red Fawn Fallis's hands tucked under Red Fawn Fallis's body while Red Fawn Fallis was lying face down on the ground. Officer Rusty Schmidt was kneeling on the ground near Red Fawn Fallis's right shoulder and Officer Rusty Schmidt and another officer were able to get Red Fawn Fallis's right arm behind her back while Deputy Thad Schmit was trying to get Red Fawn Fallis's left arm behind her back but Red Fawn Fallis's left arm was tucked under her body. Deputy Rusty Schmidt stated that during this time, officers were instructing Red Fawn Fallis to stop resisting.

Deputy Thad Schmit stated that while Deputy Rusty Schmidt was trying to get Red Fawn Fallis's right hand into a flex handcuff, Deputy Thad Schmit stopped pulling on Red Fawn Fallis's left arm to make it easier for Deputy Rusty Schmidt to get the handcuff on Red Fawn Fallis's right

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) SS.
COUNTY OF MORTON)

AFFIDAVIT CONTINUATION

hand. Deputy Thad Schmit stated that when Deputy Thad Schmit stopped pulling on Red Fawn Fallis's left arm, Red Fawn Fallis was lying partially on Red Fawn Fallis's left side and then

Deputy Thad Schmit heard two gunshots that occurred very quickly. Deputy Thad Schmit stated that Deputy Thad Schmit saw the ground near Deputy Rusty Schmidt's left knee "explode". Deputy Thad Schmit stated that Deputy Rusty Schmidt then lunged towards Red Fawn Fallis's left hand and that Deputy Thad Schmit pulled Deputy Thad Schmit's handgun and placed it on Red Fawn Fallis's back. Deputy Thad Schmit stated that Deputy Rusty Schmidt and another officer were able to get the gun out of Red Fawn Fallis's left hand and Red Fawn Fallis was handcuffed. Deputy Thad Schmit stated that Red Fawn Fallis did not have the gun in her hand when Deputy Thad Schmit took Red Fawn Fallis to the ground and Deputy Thad Schmit believes that Red Fawn Fallis was able to get the gun when Deputy Thad Schmit stopped pulling on Red Fawn Fallis's left arm. Deputy Thad Schmit also stated that after the shots were fired by Red Fawn Fallis, Deputy Shmit was concerned that Deputy Rusty Schmidt may have been shot.

Deputy Rusty Schmidt stated that Deputy Thad Schmit and Deputy Rusty Schmidt were arresting Red Fawn Fallis and Deputy Thad Schmit had taken Red Fawn Fallis to the ground and that deputy Rusty Schmidt was trying to get Red Fawn Fallis's right arm out from underneath her and Deputy Thad Schmit was trying to get Red Fawn Fallis's left arm out from underneath Red Fawn Fallis. Deputy Rusty Schmidt stated that Red Fawn Fallis was resisting and Deputy Rusty Schmidt was ordering Red Fawn Fallis to stop resisting. Deputy Rusty Schmidt stated that Deputy Rusty Schmidt and another officer were able to get Red Fawn Fallis's right arm out from under near Red Fawn Fallis and Deputy Thad Schmit was still trying to get Red Fawn Fallis's left arm out from underneath Red Fawn Fallis. Deputy Rusty Schmidt stated that during the struggle, Red Fawn Fallis was rolled partially onto Red Fawn Fallis's left side. Deputy Rusty Schmidt stated that Deputy Rusty Schmidt was kneeling on the ground by Red Fallis's head and shoulder and then Deputy Rusty Schmidt was trying to put a flex handcuff on Red Fawn Fallis's right hand when Red Fawn Fallis fired a shot from a handgun in Red Fawn Fallis's left hand and Deputy Rusty Schmidt saw the shot hit the ground near Deputy Rusty Schmidt's leg. Deputy Rusty Schmidt stated that Deputy Rusty Schmidt saw the handgun in Red Fawn Fallis's left hand and lunged at Red Fawn Fallis's left arm along the ground and struggled with Red Fawn Fallis over the gun. Deputy Rusty Schmidt stated that Red Fawn Fallis would not let go of the gun and Deputy Rusty Schmidt stated that Deputy Rusty Schmidt was losing grip on Red Fawn Fallis's arm and that Deputy Rusty Schmidt was afraid that if Deputy Rusty Schmidt lost his grip, Red Fawn Fallis would shoot him and then turn and shoot Deputy Thad Schmit.

Deputy Rusty Schmidt stated with the assistance of other officers, Deputy Rusty Schmidt was able to get the gun away from Red Fawn Fallis and they were able to get Red Fawn Fallis handcuffed. Deputy Rusty Schmidt stated that Deputy Rusty Schmidt had other officers check

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COUNTY OF MORTON)

AFFIDAVIT CONTINUATION

him over to make sure that Deputy Rusty Schmidt had not been shot. Deputy Rusty Schmidt stated that Deputy Rusty Schmidt felt that Red Fawn Fallis was trying to shoot him due to Red Fawn Fallis shooting multiple times and also not letting go of the gun when Deputy Rusty Schmidt was trying to get the gun from Red Fawn Fallis.

Once Red Fawn Fallis was in custody, officers found a small amount of what they believed to be marijuana in Red Fawn Fallis's left and right pants pockets and also metal knuckles in the backpack that Red Fawn Fallis was carrying.

Red Fawn Fallis was turned over to the custody of North Dakota Probation and Parole to be transported. During the transport, Red Fawn Fallis made the statement that she was trying to pull the gun out of her pocket and the deputies jumped her and the gun went off. Red Fawn Fallis also made the statement to Probation and Parole that they are lucky she didn't shoot "all you fuckers."

S/A Arenz did attempt to interview Red Fawn Fallis at the Morton County Detention Center on 10/27/2016 but Red Fawn Fallis requested and attorney.

Dated this 28th day of October, 2016.

Complaining Officer

Subscribed and Sworn before me on the 28 day of October, 2016.

Kary A. Stoltz
Notary Public

KARY A STOLTZ
Notary Public
State of North Dakota
My Commission Expires May 21, 2021